

JANUARY 24, 2008MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SHIRELLE M. WILLIAMS,)
)
Plaintiff,)
)
vs.) Case No.
)
CORRY MICHAEL SHOWERS and)
AMERICAN LOGISTICS SERVICES, LLC,)
)
Defendants.)

08 C 531**JUDGE ZAGEL
MAGISTRATE JUDGE MASON**

NOTICE OF REMOVAL

Now comes the Defendants, CORRY MICHAEL SHOWERS and AMERICAN LOGISTICS SERVICES, LLC, by and through their attorneys, HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER, LLC, pursuant to 28 U.S.C. Section 1441, *et seq.*, and LR 81.2 hereby removes this action from the Circuit Court of Cook County to this Court and in support of its Notice of Removal, states as follows:

1. On December 19, 2007, Plaintiff filed its First Amended Complaint at Law in the Circuit Court of Cook County, County Department, Law Division, Docket No. 2007 L 013320. A copy of said Complaint is attached hereto as Exhibit "A."
2. In filing the Plaintiff's Complaint, there is no requirement in the State of Illinois, Circuit Court, in the Law Division of Cook County, that a plaintiff allege damages less than, equal to, or greater than \$75,000.00. Illinois Procedural Law prohibits a Plaintiff in an action premised on personal injury to plead a specific *ad damnum* value, except to the extent necessary to comply with rules pertaining to case assignment. 735 ILCS 5/2-604 (West 1998). This specific procedural rule

frustrates the Defendant's ability to determine the amount in controversy solely from the face of a Complaint. *Chase v. Shop 'N Save Warehouse Foods, Inc.*, 110 F.3d 424, 427-28 (7th Cir. 1997). In this case, the accident giving rise to the lawsuit took place on June 17, 2007, on or near Interstate 90 near Roselle Road in the City of Schaumburg, State of Illinois. See Police Report, Exhibit "B."

3. The Plaintiff is a citizen of and domiciled within the State of Illinois according to the information contained within the police report, see Exhibit "B." The Defendants verified through an investigator that Plaintiff is at the time of this Removal domiciled within the State of Illinois. See Affidavit of Investigator, Exhibit "C."

4. The Defendants are citizens of and domiciled within the State of Minnesota. They are not citizens of or domiciled within the State of Illinois. See information contained within Police Report, Exhibit "B," and Affidavit of AMERICAN LOGISTICS SERVICES, LLC, Exhibit "D." AMERICAN LOGISTICS SERVICES, LLC is a corporate citizen of and domiciled within the State of Minnesota, see Exhibit "D." AMERICAN LOGISTICS SERVICES, LLC is incorporated within the State of Minnesota and has its principal place of business in the State of Minnesota, see Exhibit "D."

5. Defendant CORRY MICHAEL SHOWERS is a citizen of and domiciled within the State of Minnesota. See Affidavit of Shimon B. Kahan, Exhibit "E."

6. All Defendants join in this Notice of Removal.

7. Defendants have timely removed this matter to Federal Court. Defendant AMERICAN LOGISTICS SERVICE, LLC was served with notice of process on January 2, 2008. See Notice of Service of Process issued by Corporation Service Company, Exhibit "F."

8. Defendant CORRY MICHAEL SHOWERS has not yet been served but hereby waives service and submits himself to the jurisdiction of this matter, having been notified of the pendency of the pending action on or about January 14, 2008.

9. All that is required for a removal is a “reasonable probability” that more than \$75,000.00 is in controversy. *Shaw v. Dow Brands*, 994 F.2d 364, 366 n2 (7th Cir. 1993); *John R. Rising-Moore v. Red Roof Inn, Inc.*, 368 F.Supp. 2d 867 (S.D. Ind. 2005). The nature of the claim alleged in the Complaint usually makes it simple for a Judge to determine whether it is more likely true than not that the amount in controversy exceeds the jurisdictional requirement. *See, e.g., McCoy v. General Motors Corp.*, 226 F.Supp.2d 939, 941-42 (N.D. IL 2002) (the amount in controversy is generally “obvious from a common-sense reading of the Complaint.”)

10. Here, the Plaintiff alleges in p. 7 that as a result of the accident, “that as a direct or proximate result of one or more aforementioned negligent acts or omissions of the Defendants, . . . resulting in the Plaintiff sustaining injury to various portions of her body requiring her to expend money for medical care and treatment; resulting in and experiencing pain, suffering, and mental anguish both now and in the future; resulting in her becoming both temporarily and permanently disabled and disfigured; and resulting in her losing money due to her inability to maintain her employment for a period of time. See Exhibit “A.” In addition, medical bills of the Plaintiff from June 2007 alone total in excess of \$48,000. See medical bills from St. Alexis Medical Center, Group Exhibit “G.”

11. Clearly, Plaintiff alleged that she will suffer pain, disability, and permanent problems in the future along with the loss of future income. Clearly, there is a reasonable probability that the amount in controversy as set forth by the Plaintiff’s own pleadings and allegations in her Complaint such that the amount in controversy exceeds \$75,000.00.

12. Plaintiff's counsel will be served with written notice of this Notice of Removal in accordance with the Federal Rules of Civil Procedure or, alternatively, through electronic filing by the Court. A true and accurate copy of this Notice of Removal will be filed with the Clerk of the Circuit Court of Cook County, Law Division advising the Circuit Court that the matter has been removed to Federal Court. A true and accurate copy of the Notice of Removal has been filed with the Clerk of the District Court for the United States District Court, Northern District of Illinois, Eastern Division.

WHEREFORE, Defendants, CORRY MICHAEL SHOWERS and AMERICAN LOGISTICS SERVICES, LLC, respectfully requests that this Honorable Court remove this action from the Circuit Court of Cook County to this Court for further proceedings, and further, for any additional relief that this Court deems just.

Respectfully submitted,

HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER, LLC

/s/ Shimon B. Kahan

Shimon B. Kahan - ARDC No. 6207172
HAYNES, STUDNICKA, KAHAN, O'NEILL & MILLER, LLC
Attorney for Defendants
200 W. Adams St., Ste. 500
Chicago, IL 60606-5215
Tel: (312) 332-6644
skahan@hskolaw.com